

REMARKS

A. Introduction

Claims 1, 4, 15-18 and 22-32 were pending and under consideration. Claims 2, 3, 5-14, and 19-21 were previously cancelled.

In the Office Action of December 19, 2008 ("the Office Action"), claims 1, 4, 15-18, and 22-32 were rejected as obvious. Moreover, claims 1, 4, 15-18 and 22-32 were rejected as containing new matter.

Without conceding to the merits of the rejections, the claims have been amended to clarify an aspect of the present general inventive concept, claims 22 and 32 have been cancelled, and claims 33 and 34 are new. No new matter has been introduced.

B. Rejection under 35 USC §112

Claims 1, 4, 15-18, and 22-32 were rejected under 35 USC 112 as containing new matter. The Examiner argues "[t]he specification does not appear to disclose a sintered mesophase carbon material in combination with [Mg₂Si]." As best understood by Applicant, this rejection is limited to claims 22 and 32 because only claims 22 and 32 recite such.

Without conceding to the merits of the rejections, claims 22 and 32 have been cancelled thereby rendering the rejections moot.

Accordingly, reconsideration and withdrawal of these rejections are requested.

C. Rejection under 35 USC §103

Claims 1, 4, 15-18, and 22-32 were rejected under 35 U.S.C. §103(a) as being unpatentable over JP10-312789 to Inamasu ("Inamasu"). Applicant traverses this rejection for at least the following reasons.

Independent claims 1 and 4 presently require, *inter alia*, an anode having a molded body. This feature is advantageous because it enables a secondary cell to have a high discharge capacity recovery ratio exceeding 90% even when it is stored at a high temperature for a long period of time, e.g., 80 days or more. See Specification, para. 0066.

The cited art fails to disclose or fairly suggest this feature and therefore is unable to provide this advantage. There is no cited prior art with an anode having a molded body.

Inamasu is limited to a negative-electrode active material of fine particles with an average grain size of 0.1-100 nm, which is not the same as an anode having a molded body. *See* Inamasu para. 0020. Further, claims 33 and 34 respectively depend from independent claims 1 and 4, and further define the anode molded body.

Accordingly, because the art of record fails to disclose or suggest the present general inventive concept as claimed, the rejection of independent claims 1 and 4 under 35 U.S.C. §103(a) is improper, and withdrawal of these rejections and allowance of these claims are earnestly solicited. Claims 15-18, 23-31, 33, and 34 depend from independent claims 1 and 4, include all of the limitations of independent claims 1 and 4, and are patentable over the art of record for at least the same reasons discussed above with respect to claims 1 and 4. Thus, withdrawal of these rejections and allowance of these claims are respectfully requested.

D. New Claims

New claims 33 and 34 have been added. Support for the new claims can be found in the specification and drawings, for example, in paragraphs 0044 and 0052 of the Specification. New claims 33 and 34 recite features, which are not disclosed or suggested in the prior art of record.

Accordingly, it is respectfully submitted that new claims 33 and 34 do not present new matter and are allowable over the prior art of record, and allowance of these claims is earnestly solicited.

E. Conclusion

It is respectfully submitted that a full and complete response has been made to the outstanding Office Action and, as such, there being no other objections or rejections, this application is in condition for allowance. Notice to that effect is requested.

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Reply to Office Action of December 19, 2008

If any further fees are required in connection with the filing of this amendment, please charge the same to our Deposit Account No. 19-3140.

Respectfully submitted,
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